

REMARKS

Claims 1-67 remain pending.

Claims 1 and 2 are further amended in a non-narrowing manner to clarify the claims.

Applicant thanks the Examiner for providing, in the current Office action, a copy of the provisional specification for the Geshwind application.

As discussed below, Applicant maintains that the pending claims 1-5 are patentable over the Geshwind publication and thereby traverses the rejection of claims 1-5 as being anticipated by Geshwind.

It is axiomatic that to anticipate a claim, the relied-upon prior art must teach each and every element of the rejected claim. The Geshwind publication fails to teach every element of claim 1, and thereby fails to anticipate claim 1.

Independent claim 1, for example, recites a method for processing test results and includes “identifying a skill set comprising one or more skills for the test, at least one of said skills being necessary for a correct response for each item of the plurality of items; assessing the extent to which each item on the test assesses one or more of the skills identified in (c); and calculating a score for each test taker’s performance in each of said skills.” The Geshwind publication does not disclose or suggest these features or the subject matter of claim 1 as a whole.

Referring to Fig. 5 of the Geshwind publication, it suggested in the Office Action of May 13, 2003 that Geshwind discloses determining appropriate skill categories and calculating a score for each student’s performance in each skill category, and, referring to Fig. 12 of the Geshwind publication, it is suggested in the Office Action that Geshwind discloses assessing the extent to which each item assesses the one or more skills. See May 13, 2003 Office Action at p. 2. Applicant respectfully disagrees.

Figure 5 of Geshwind shows an exemplary student progress report database. The database includes a student’s average weekly scores in two subjects (i.e., domains), math and

verbal, along with indications of progress and recommendations for each subject. It does not show the features of identifying skill sets for which at least one skill of the skill set is necessary for a correct response to each item of the test, nor does it show the feature of calculating a score for each skill of the skill set.

Figure 12 of the Geshwind publication shows an artificial intelligence algorithm, referred to as an expert system, for assisting a teacher/author in organizing the presentation of instructional content. See Geshwind ¶¶ 81-84. It does not describe the feature of assessing the extent to which each item of a test assesses each of the skills of the skill set.

Furthermore, it is noted that Figures 10-17 and paragraphs 64-151 of the Geshwind publication are not part of the Geshwind provisional application. Accordingly, the disclosures in Figures 10-17 and paragraphs 64-151 are not entitled to the Geshwind provisional filing date of October 31, 2000, but, on the contrary, are entitled to a priority date no earlier than the October 31, 2001 non-provisional filing date of the Geshwind publication.

The claims of the present application are supported by – and are therefore entitled to the February 9, 2001 priority date corresponding to the filing date of – provisional application number 60/267,840. For example, with respect to the elements of claim 1, elements (a) through (c) find support at, *inter alia*, pages 7-8 of the provisional application, element (d) finds support at, *inter alia*, pages 7-14 of the provisional application, and element (e) finds support at, *inter alia*, pages 19-35 of the provisional application. Thus, the claims of this application predate the disclosure found at Figures 10-17 and paragraphs 64-151 of the Geshwind publication.

For at least the forgoing reasons, applicants submit that claim 1, as well as dependent claims 2-5, are patentably distinguishable from the Geshwind publication.

Claims 2-5 also recite additional features that make those claims independently patentable. For example, claim 2 recites calculating the scores of a group within skills, where a group is defined as multiple test-takers. Similarly, claim 3 recites generating evaluation and formative statements for individual test-takers and groups.

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The Geshwind publication does not disclose or suggest such features. Although the Geshwind publication mentions (at paragraph 56) that statistics of how all students do with a particular problem may be kept, there is no suggestion of the particular features recited in the pending claims as they relate to a group of test-takers.

For those additional reasons, the dependent claims should be allowed.

The reasons that claims 6-67 are believed to be patentable are described in the reply filed November 12, 2003.

Applicant respectfully requests examination of all pending claims, including the additional claims submitted in applicant's reply filed on November 12, 2003.

All rejections and objections having been addressed, it is respectfully submitted that the present application is now in condition for allowance and a notice to that effect is earnestly requested.

Respectfully submitted,

By _____


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